

Summary of Testimony by John E. Roussel, Assistant Secretary, Office of Fisheries, Louisiana Department of Wildlife and Fisheries on Reauthorization of the Magnuson-Stevens Fishery Conservation and Management Act, Presented to The United States Senate Committee on Commerce, Science, and Transportation, New Orleans, Louisiana December 14, 1999

My name is John Roussel. I am the Assistant Secretary of the Louisiana Department of Wildlife and Fisheries, Office of Fisheries. Thank you for the opportunity to appear before you today and welcome to Louisiana.

My testimony today will address five issues: Sound Science, Law Enforcement, Definitions of Overfishing/Overfished/ MSY, Red Snapper/Shrimp Management, Essential Fish Habitat and State Jurisdiction.

SOUND SCIENCE

The Act recognizes that collection of reliable data is essential to the effective conservation, management and scientific understanding of the fishery resources of the United States, however, this is the biggest challenge facing the councils and the states. Developing measures to eliminate overfishing is relatively easy. Determining whether a fish stock is overfished or if overfishing is occurring is not so easy. Many years of data are required to adequately determine the status of a fish stock and to evaluate the effects of management measures. Although we have improved our data collection efforts over the years through state and federal cooperation and coordination we are far from where we should be.

The Act specifies that conservation and management measures shall be based on “the best scientific information available”. Although this may appear to be a high standard, in practice

it is high only if well-designed and fully funded data and information collection programs are in place. Sections 401-407 provide for data collection and there has been recent partial funding of the GulfFIN initiative. However, all of our fishery management plans identify the need for improved data collection. Virtually all discussions of the status of fish stocks at all levels of the Council process include much debate about the assumptions that must be made in the absence of scientific information. There must be a full commitment to adequately funding well designed data collection programs, otherwise we will not be able to fulfill our obligation to the nation to realize the full potential of the nation's fishery resources. Full funding of the GulfFIN initiative, at \$7 million annually, would go a long way towards addressing our data and information needs in the Gulf.

STATE BASED LAW ENFORCEMENT

Compliance with regulations is essential for the success of natural resource management programs. The only efficient way to achieve a sufficient level of success and compliance with federal management programs is through an enhancement of state enforcement programs, working cooperatively with National Marine Fisheries Service law enforcement and the United States Coast Guard.

Currently the States in the Gulf receive no federal funding for enforcing regulations associated with the Magnuson-Stevens Act, yet state enforcement agencies produce more than seventy percent of all the cases initiated for violations of the Act. By comparison, the United States Coast Guard receives upwards of \$25 million annually for Magnuson-Stevens Act

enforcement for only a portion of the Gulf, while initiating only thirty percent of the cases. This funding discrepancy threatens the existence and effectiveness of the Act. The National Marine Fisheries Service (NMFS) enforcement is severely understaffed with 10 to 12 federal agents and therefore is capable of providing only minimal impact in the Gulf of Mexico. The United States Coast Guard (USCG) serves as a multiple mission agency whose priorities often preclude them from emphasizing fishery enforcement.

All of the Gulf states support very large commercial and recreational fisheries within their waters and have clearly demonstrated their expertise and effectiveness in enforcing state-managed fisheries. The enforcement efforts of the states should be sufficiently federally funded on a long-term basis to increase compliance with this important Act. The failure to supply adequate enforcement funding sets the stage for management failure.

Enforcement officer presence is the key factor in ensuring regulation compliance. The level of officer presence must be adequate to detect a sufficient number of violations to deter any purposeful violations of the law so that the effects of undetected violations are insignificant. Additional officer presence will increase compliance by fishery participants, increase monitoring of landings, increase effectiveness of dockside inspections, and provide increased ability to respond to complaints of illegal activities. The existing state enforcement organization and infrastructure is best postured to provide increased officer presence. Providing long-term enforcement funding to the states represents the greatest value in spending the federal tax dollar.

Language calling for joint enforcement project agreements tailored specifically to the Gulf of Mexico region, but similar to that contained in Section 403 of S. 1420 should be

implemented. Funding for the Gulf of Mexico region joint project law enforcement agreement should be authorized to be appropriated for \$18 million for each of fiscal years 2000 through 2004.

DEFINITIONS OF OVERFISHING/OVERFISHED/MSY

Currently there is confusion regarding the definitions of overfishing, overfished and MSY. Both overfishing and overfished are defined the same in the Act and Maximum Sustainable Yield is not defined in the Act.

It is essential that the reauthorized Act make clear the distinction between the definitions of overfishing and overfished. Maximum Sustainable Yield (MSY) must also be consistently defined. A national panel of fisheries science experts should address these key definitions.

RED SNAPPER/SHRIMP MANAGEMENT

Red snapper has been one of the high profile species managed in the Gulf. Reauthorization of the Act must include measures that will stabilize regulation of the red snapper fisheries and allow the species to recover from its overfished status.

Fisheries management is best accomplished with long-term, consistent regulations that the public can learn, plan for and comply with. The recent history of red snapper management has provided anything but a setting in which a reasonable person could understand what the current regulations are and what the near future regulations will be. Much of the instability has been the result of the 1996 amendments to the Act. The Louisiana Wildlife and Fisheries

Commission is empowered to set seasons and size limits for this species and has attempted to maintain a high degree of consistency with federal regulations. Our Commission has considered red snapper action items on its monthly agenda more than a dozen times in the three years since the passage of the Sustainable Fisheries Act - more than any other single species of fish or wildlife. Most of these actions have been size limit changes, bag changes and season changes. The public relies on the Louisiana Department of Wildlife and Fisheries' annual commercial and recreational fishing pamphlets to guide its lawful fishing behavior. These have become out of date for red snapper almost as soon as they become available. For a state with only a 3-mile territorial sea and minimal red snapper catch in state jurisdiction, this instability has become excessively burdensome.

One major problem caused by the Act is the required use of the recreational allocation as a quota and automatic closure of recreational fishing when that quota is reached. This portion of the Act should be rescinded until the federal government funds an appropriate recreational quota-monitoring program.

The reauthorized Act should not contain a prohibition on the Gulf Council's consideration of individual fishing quota programs for red snapper. This tool and any others that may be helpful in the management of this fishery must be allowed full study and debate.

The management of red snapper under the provisions of the Act includes the management of the shrimp fishery of the Gulf. The recent stock assessments indicate that the recovery of red snapper to healthy levels will be difficult without further significant reduction of red snapper bycatch by the shrimp industry. This will be the struggle of the next decade.

Louisiana stands to bear some of the largest impacts of management decisions as we account for forty percent of the Gulf shrimp landings and sixty five percent of the Gulf commercial red snapper landings. Adequate funding must be made available to further examine the bycatch impact and to continue technology development for bycatch exclusion and shrimp retention.

ESSENTIAL FISH HABITAT

The Louisiana Department of Wildlife and Fisheries is supportive of the concepts contained in the 1996 EFH provisions. Proposed habitat modifications that may significantly impact essential fish habitat are being scrutinized with the value of these habitats in mind. It has been our experience within the last year that existing procedures of review and consultation have generally been used to satisfy these guidelines. It seems that the EFH amendment has helped to make the importance of preserving fish habitat one of the issues to be taken into account in the larger picture of balancing developmental needs with environmental needs.

STATE JURISDICTION

The 1996 amendments to Section 306 added language to address a state's authority to regulate a fishing vessel outside the boundaries of the state. However, there is still an impediment to a state regulating vessels operating in federal waters off its shores in the absence of a federal management plan.

An example of the problem occurs in an area off the central coast of Louisiana, beyond our state territorial waters, which from time to time is a productive oyster area. This area is

generally productive when our more traditional inshore and near-shore oyster producing areas are experiencing reduced productivity. Louisiana has successfully regulated vessels registered and licensed by our state, but continues to be unable to regulate vessels not registered or licensed by our state. Because of the relatively limited occurrence of oysters in the federal waters of the Gulf there is little incentive for federal management plan development. Similar situations with other species, which predominantly occur in state waters and for which there is no federal management plan, may occur. Language similar to that in Section 306(a)(3)(c) should be considered to address this situation.

This concludes my testimony and I thank you again for the opportunity to offer these views regarding the reauthorization of the Magnuson-Stevens Act.